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SUBJECT: APPEALS COURT DECISION OF GRANVILLE/ABBAS MURDER TRIAL

1. (U) SUMMARY: On July 22, 2009, the Khartoum Court of Appeals issued its decision regarding the defendants' appeal of the Granville/Abbas murder trial. The Court affirmed the verdicts of the four men convicted of murder by the trial court. The Court overturned the weapons-related convictions of two of the four men convicted of murder. The Court also overturned the weapons-related conviction of a fifth man but remanded the case to the trial court for consideration of alternative charges. The Appeals Court noted that the Abbas family has reconsidered their earlier decision to request the death penalty and has formally waived their right to retribution. Accordingly, the Appeals Court set aside the death penalty and remanded the case to the trial court to solicit the position of the Granville family with respect to the death penalty. The trial court is scheduled to hold a session on September 15, 2009, during which it will request that the Granville family's position be presented to the court. END SUMMARY

2. (U) Following the conviction on June 24, 2009 of the five men involved in the January 1, 2008 murders of USAID Officer John Granville and FSN driver Abdelrahman Abbas, the defendants appealed the trial court decision to the Khartoum Court of Appeals. In its July 22, 2009 decision (Note: The written decision of the Appeals Court was delivered to the Embassy on August 18 and formal translation was completed on August 26. End Note), the Appeals Court considered the evidence and arguments provided by the defense counsel and confirmed the verdicts of the four men convicted of murder, Mohamed Makawi Ibrahim, Abdel Basit Hag El-Hassan Hag Mohamed, Muhanad Yousif Mohamed, and Abdel Raouf Abu Zaid Mohamed Hamza.

3. (U) The appeals court overturned the sentence of the fifth man, Morad Abdelrahman Abdullah Al-Sheikh, who had been convicted of a weapons-related charge only. The Appeals Court held that in order to be guilty of the particular weapons crime charged, the defendant would have had to have been in possession of a firearm at the time of the attack. Because Mr. Al-Sheikh was not present at the shootings, he could not have been convicted of this weapons charge. The Court remanded the case to the trial court so that it could consider whether Mr. Al-Sheikh should be convicted of crimes related to harboring the perpetrators and otherwise providing assistance. Although not mentioned in the decision itself, the maximum penalty for harboring perpetrators under Sudanese law is five years imprisonment. Mr. Al-Sheikh was originally sentenced to two years imprisonment, effective beginning January 19, 2008. Under Sudanese law, prisoners receive credit for one-year time served for each seven months of good behavior in prison.

4. (U) The four men convicted of murder were also convicted by the trial court of weapons-related crimes. The Appeals Court overturned the weapons-related verdicts of Mr. Muhanad Mohamed and Mr. Hamza, reasoning that these defendants were not in possession of firearms at the time of the attack.

5. (U) The Appeals Court directed the trial court to consider a more severe penalty in the case of Mr. Ibrahim and Mr. Muhanad Mohamed

with respect to their convictions on document forgery and false statement charges.

¶16. (U) The Appeals Court also noted that the Abbas family had communicated to the Court its desire not to seek the death penalty for the four men convicted of murder. Some media sources have reported that the Abbas family may have accepted compensation from the defendants for its decision, a practice that is permitted under Sudanese law. The Appeals Court subsequently set aside the death penalty sentence imposed by the trial court and remanded the case to the trial court to solicit from the Granville family its intention with regard to the imposition of the death penalty. The Appeals Court stated that, prior to sentencing the defendants, the trial court should have allowed the Granville family time to appropriately present its request for retribution. The trial court is now instructed to receive the appropriately authenticated statement from the Granville family.

¶17. (U) Several media sources in both local and international press have suggested that the Appeals Court commuted the death penalty of the four men convicted of murder without regard to the Granville's family sentencing intentions. The articles do not reflect the fact that the Appeals Court has instructed the trial court to solicit from the Granville family its' intention with regard to the death penalty.

¶18. (U) The next court session has been scheduled for September 15, 2009. In preparation for that session, USAID/Office of General Counsel has been working closely with the Granville family, the U.S. Attorney for the Western District of New York and the Granville family's Sudanese attorney to have the necessary documents authenticated, translated, and delivered to Khartoum for presentation to the trial court. This process is expected to be completed prior to September 15.

¶19. (U) Under Sudanese law, the right of retribution belongs to each murder victim's family. Therefore, even if one family waives its right to retribution, the court should honor another victim's family's request for the death penalty. A victim's family can decide to waive its right to retribution at any point prior to the carrying out of the execution. If both victims' families waive their rights to retribution, then the four men convicted of murder would be sentenced to imprisonment for up to ten years plus the additional penalties of the other crimes for which they were found guilty. Prison sentences may also be pardoned by the President of Sudan under Sudanese law. The President does not have the power to pardon defendants who are punished based on a victim's family's right to retribution.

¶10. (U) The Appeals Court decision can be appealed to the Supreme Court of Sudan for a final decision. The deadline for making such an appeal is 15 days following the trial session currently scheduled for September 15.

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